



PLANNING COMMISSION MEETING STAFF REPORT FEBRUARY 9, 2006

Project: VISTA GRANDE- (PLN2006-00150)

Proposal: To consider a request to extend, for one additional year, the right to develop based on the regulations in place in 1992 per Vesting Tentative Tract Map 6546, for 17 lots.

Recommendation: Approve

Location: 44110 Hunter Lane in the Mission San Jose planning area.
APN 513-0325-005-00 and 513-0325-006-00
(See aerial photo next page)

Area: 12.62 acres

People: Deccan Pacific Vista Grande LLC, Applicant
Alan L. Reeves, Agent of Applicant
Deccan Pacific Vista Grande LLC, Owner
Barbara Meerjans, Staff Planner (510) 494-4451;
bmeerjans@ci.fremont.ca.us

Environmental Review: A Mitigated Negative Declaration has been previously adopted for this project.

General Plan: Very Low Density Residential, and Low Density Residential (0.5 – 1.5, and 2-3.5 dwelling units per acre), Hill Face Open Space.

Zoning: Planned District, P-90-17(R)

EXECUTIVE SUMMARY:

The applicant is requesting to extend, for one additional year, the right to develop based on the regulations in place in 1992 per Vesting Tentative Tract Map 6546, for 17 lots. The City of Fremont has the authority to grant this request pursuant to Government code 66498.5 and Fremont Municipal Code 8-1440.4.(c)(3). The vesting rights for this map are currently in effect until July 10, 2006. The proposed extension would allow the vesting rights to continue until July 10, 2007.



Figure 1: Aerial Photo (2002) of Project Site and Surrounding Area.



SURROUNDING LAND USES: North: Alameda County Water District Reservoir, Hill Open Space
 South: Single-family Residences
 East: Hill Open Space
 West: Single-family Residences

BACKGROUND AND PREVIOUS ACTIONS:

The Planning Commission recommended, to City Council approval of Planned District P-90-17 and adoption of Mitigated Negative Declaration EIA-90-92 and conditionally approved Preliminary Grading Plan GP-90-16 on October 10, 1991. On November 19, 1991, the City Council approved Planned District (P-90-17) and a Preliminary Grading Plan (GP-90-16) for the development of a proposed twenty-one lot subdivision, to accommodate 19 residential units. On September 24, 1992, the Planning Commission approved Vesting Tentative Tract Map 6546 for the subdivision of the subject property in the manner approved by the Planned District. The map was valid for two years and was then automatically extended by legislative action for an additional three years to September 24, 1997. The Planning Commission approved five one year time extensions for this Vesting Tentative Tract Map 6456 on October 23, 1997, November 19, 1998, November 18, 1999, October 26, 2000, and November 29, 2001. The applicant subsequently claimed that conditions added with the City granted extensions required compliance with the not yet adopted Mission Peak Landslide Area Development Policy and that the resulting delay was a de facto moratorium which automatically extends the life of the tract map by operation of the law. On January 27, 2004 the City Council upheld the applicant's position regarding the de facto moratorium and extended Vesting Tentative Tract Map 6456 for sixteen months. The final map for Vesting Tentative Tract Map 6456 (now 17 lots) was recorded on July 11, 2005.

PROJECT DESCRIPTION:

The applicant is requesting to extend, for one additional year, the right to develop based on the regulations in place in 1992 per Vesting Tentative Tract Map 6546, for 17 lots. The City of Fremont has the authority to grant this request pursuant to Government Code 66498.5 and Fremont Municipal Code 8-1440.4.(c)(3). The vesting rights for this map are currently in effect until July 10, 2006. The proposed extension would allow the vesting rights to continue until July 10, 2007. The grading of the project site is substantially complete and the road and utilities are under construction.

PROJECT ANALYSIS:

General Plan Conformance:

The existing General Plan land use designation for the project site is Very Low Density Residential, and Low Density Residential (0.5 to 1.5, and 2 to 3.5 dwelling units per acre), and Hill Face Open Space. The proposed project is consistent with the existing General Plan land use designation for the project site because extension of the vesting rights for one year implements the approved Planned District (P-90-17) and Vesting Tentative Tract Map 6456. The following General Plan Goals, Objectives and Policies were previously found applicable to the approved Planned District and Vesting Tentative Tract Map 6456:

Housing Goal H2. High Quality and Well-Designed New Housing of All Types throughout the City.

Health and Safety Objective HS 1.1. Development which responds to and minimizes geologic hazards.

Health and Safety Policy HS 1.1.2. Require proposed new development in areas of potential geologic hazard identified on Figure 10-1, Slope Instability Map, of the General Plan to evaluate geologic hazards and sufficiently mitigate hazards through site planning, appropriate construction techniques, building design and engineering.

Zoning Regulations:

The proposed extension of vesting rights for Vesting Tentative Tract Map 6456 is for one additional year. Extensions of vesting rights may not extend more than two years in total beyond the recording of the final map. The conditions of approval of the Planned District, P-90-17, Vesting Tentative Tract Map 6456 and Preliminary Grading Plan GP-90-16 remain the same as previously approved.

Analysis:

The intent of a vesting tentative map is to provide an assurance to the developer, who is investing substantial sums over a period of time, that the project will be allowed to subdivide and build in accordance with regulations that exist at the time the vesting tentative tract map is conditionally approved. The Vista Grande development has taken an unusually long time because of the extensions, including legislative extensions, and the required compliance with the Mission Peak Landslide Area Development Policy as described previously. Approval of the extension will allow a reasonable time frame for purchasers of the lots to process their construction drawings for building permits at staff level. At the time the Vesting Tentative Tract Map was approved in 1992, the site plan and architectural review process was at staff level during the building permit review. In March of 1993, Planning Commission instituted a policy requesting all residences in excess of 5,000 square feet be referred to Planning Commission for review and approval because of concerns regarding size and massing of the structures. The zoning text amendments implementing Measure T have since codified the Planning Commission review of large new residences in the hill area. The zoning ordinance now requires that within approved Planned Districts, all new residences above the Toe of the Hill (TOH) and all new residences below the TOH and in excess of 7,500 square feet in size are subject to site plan and architectural review by Planning Commission through the amendment process. After vesting rights for the Vista Grande development end, a portion of the project will be subject to Measure T requirements.

Environmental Review:

An Initial Study and Mitigated Negative Declaration were previously approved for this project in 1991 (EIA 90-92). In 1998 the Mission Peak Landslide occurred in the Fremont hill area. The 1998 Mission Peak Landslide Study (dated February 2000), conducted by Geolith Consultants on behalf of the City identified and mapped numerous historic landslides and areas susceptible to landslides. The proposed project is within the area which may be affected by the Mission Peak slide. The 2002 Initial Study and Subsequent Mitigated Negative Declaration evaluated only this new geotechnical information which was not known, and could not have been known, at the time the previous Mitigated Negative Declaration was adopted in 1991. All prior mitigation measures identified in the 1991 and 2002 Mitigated Negative Declarations still apply and are noted below.

An Initial Study was also prepared to analyze the revised Preliminary Grading Plan. The environmental analysis did not identify any new potential impacts as a result of the proposed project that had not been identified in previous environmental documents and accordingly, a Negative Declaration was approved by the Planning Commission on March 11, 2004.

Mitigation Measures from the 1991 and 2002 Mitigated Negative Declarations are as follows:

A. Mitigation Measures from EIA 90-92:

1. The City has recently implemented mitigation to survey sites prior to the commencement of any grading activities to determine whether or not the species (burrowing owl) is located on the site. Implementation of the City's mitigation measures for the protection of the burrowing owl will reduce the identified impact to a non-significant level.
2. Should removal of any of the existing trees on site be required, the replacement at a ratio of three trees for every one tree removed would mitigate the impact to a non-significant level. The new trees should be a minimum of 24 inch box specimens in size. These new trees would be in addition to the required street trees for this project. Implementation of the above-described mitigation measures would reduce any identified impacts to a non-significant level.

B. Mitigation measures from PLN2002-00325

1. Expansive clay soils: Expansive clay soils must be considered in the design of grading, foundations, drainage, and landscaping. The following three mitigation measures will simultaneously provide mitigation for the expansive clay soils at the site.
2. Undocumented fill: Fill must be removed during grading and if it is determined to contain less than 3% by weight of organic material, it can be reused and replaced as engineered fill. If it contains more than 3% by weight of organic material, it can be used in landscape areas or blended with new material and reused as engineered fill.
3. Relic Landslide feature: Further investigation by an engineering geologist or geotechnical engineer during grading to confirm the presence or absence of this feature and provide recommendation for mitigating any hazards. Any mitigation recommendations made by the consultant shall be implemented, with the approval of the City Engineer.
4. Mudflow material: Drill a row of piers along the north property line or excavate a minimum 30-foot wide strip of mudflow material along the north property line within the development area, and recompacting the excavation with engineered fill. A separation material such as geotextile fabric should be placed between the engineered fill and the north side of the property line.

The above mitigation measures will be implemented as the project proceeds.

PUBLIC NOTICE AND COMMENT:

Public hearing notification is applicable. A total of 39 notices were mailed to owners and occupants of property within 300 feet of the site. The notices to owners and occupants were mailed on January 23, 2006. A Public Hearing Notice was published by The Argus on January 23, 2006.

ENCLOSURES:

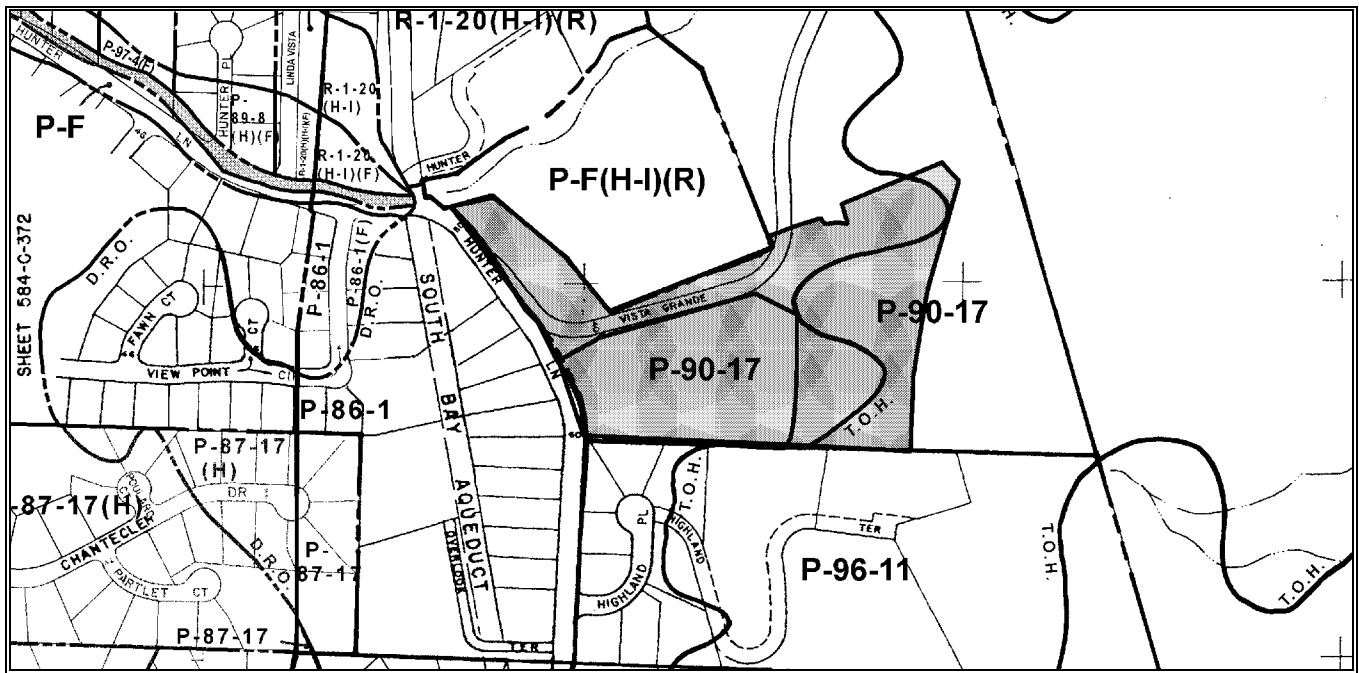
Informational Items:

1. Applicant letter from Alan L. Reeves dated September 30, 2005
2. Final Tract Map 6456

RECOMMENDATION:

1. Hold public hearing.
2. Find the previously approved Mitigated Negative Declarations address the proposed project and no further environmental review is required.
3. Find the proposed extension of vesting rights for Vesting Tentative Tract Map 6456 - PLN2006-00150 for one year is in conformance with the relevant provisions contained in the City's existing General Plan. These provisions include the designations, goals and policies set forth in the General Plan's Housing, and Health & Safety Chapters as enumerated within the staff report.
4. Approve PLN2006-00150, granting a one year extension of vesting rights for Vesting Tentative Tract Map 6456 to July 10, 2007.

Existing Zoning
Shaded Area represents the Project Site



Existing General Plan

